IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 13714 of 2004(G)

PETITIONER:

SURENDRAN. A.K., S/O. KARAPPAN,
ASARIKANDI HOUSE, KAKKANCHERY,
CHELEMBRA, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR.

RESPONDENTS:
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1. **THE CHELAMBRA GRAMA PANCHAYATH,**
   REPRESENTED BY ITS SECRETARY, CHELAMBRA,
   MALAPPURAM DISTRICT.

2. **THE DEPUTY DIRECTOR OF PANCHAYATH,**
   MALAPPURAM.

BY ADV. SRI.S.V.BALAKRISHNA IYER,
SRI.S.SAJITH,
GOVERNMENT PLEADER SMT. T.B. RAMANI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.13714/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER OF THE R.1. AS NO. A3.153/03 DTD. 15/04/2004.

EXT.P.2: COPY OF THE BUILDING PERMIT ISSUED TO THE PETITIONER BY THE R.1. DTD. 05/10/2001.

EXT.P.3: COPY OF THE PLAN OF THE COMPLETED BUILDING OF THE PETITIONER.

EXT.P.4: COPY OF THE LICENCE ISSUED TO THE PETITIONER BY THE R.1. AS NO. 97/2003 DTD. 01/09/2003.

EXT.P.5: COPY OF THE NOTICE ISSUED BY THE R.1. TO THE PETITIONER DTD. 04/03/2003.

EXT.P.6: COPY OF THE LETTER SUBMITTED BY THE PETITIONER TO THE R.1. DTD. 21/07/2003.

EXT.P.7: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE R.2. DTD. 20/04/2004.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.13714 OF 2004

Dated this the 17th day of July, 2007

JUDGMENT

The petitioner challenges Ext.P1 decision of the Secretary of the Panchayat, which is, admittedly, an appealable order. The findings therein are purely on questions of facts. The Secretary found that the building has been constructed in violation of the plan and permit. Though, initially building number was accorded, later, it was found that the constructions were not in accordance with the plan. Not only that, during the course of proceedings, the petitioner was also found to have made certain constructions in violation of the permit.

2. In para 7 of the writ petition it is stated that the petitioner has invoked the statutory remedy by way of appeal. Under such circumstances, I am not inclined to enter into adjudication as to the correctness of Ext.P1 order. The writ petition is accordingly dismissed without prejudice to the right of the petitioner to prosecute the appeal referred to in para 7 of the writ petition. If

such appeal is pending and yet to be disposed of, the interim order dated 30.4.2004 granted in this writ petition will stand extended for a period of three months from now and the appellate authority will dispose of the appeal within a period of one month of the receipt of a copy of this judgment. The petitioner is directed to produce a copy of this judgment before the first respondent to ensure compliance of the direction contained herein.

If no appeal as stated in para 7 is on record or the same has already been disposed of, the order of stay granted on 30.4.2004 will stand vacated by the force of the judgment and the parties will stand regulated accordingly.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.